IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S.ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 4589 of 2005

Between:

M/s. Priyadarhsini Cement Limited,

(Now known as M/s. Rain Industries Limited),
Ramapuram, Nalgonda District.

Rep. by its Advisor -Corporate Affairs,
Sri G. Ramachandran.

..... PETITIONER

AND

1 Assistant Commissioner (CT)(LTU),

Nalgonda Division, Nalgonda.
2 Appellate Deputy Commissioner (CT),

Hyderabad Rural Division, Hyderabad.
3 The Additional Commissioner (CT) Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction particularly one in the nature of Writ of Mandamus granting stay of collection of the balance disputed tax of Rs. 11,62,18,803/- arising in pursuance of the stay rejection proceedings of the third respondent dt.28-2-2005 passed in CCTs' Ref.No.LII(3)/215/2005 read with the assessment order dt. 29-11-2004 passed by the first respondent for the assessment year 2001-02 (CST) pending disposal of the appeal before the second respondent or to pass such further

or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.S.KRISHNA MURTHY

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court at the admission stage made the following :

ORDER:(per TCSR,J)

This writ petition is directed against the order rejecting the stay by the learned Additional Commissioner (CT) Legal, Hyderabad, dated 28-02-2005.

Under the impugned order, the learned Additional Commissioner refused to grant stay pending adjudication of the appeal filed by the petitioner before the second respondent-Appellate Deputy Commissioner (CT).

It is the contention of the learned counsel for the petitioner that the facts of the instant case do not warrant an usual order to be passed inasmuch as the assessment has been made on erroneous report and the same has been sought to be rectified in the later point of time, but it has been not allowed to do so and, therefore, it is a case where the matter has to be considered by the Court.

In view of the very submission of the learned counsel for the petitioner that the matter is pending consideration before the second respondent, we are not inclined to go into the merits of the case.

Therefore, it is a case where a usual order shall have to be passed, having regard to the contention raised by the learned counsel for the petitioner, by reducing percentage of deposit from 50% to 30%.

The writ petition is therefore disposed of accordingly at the threshold with the directions as under:

The petitioner shall deposit 30% of the disputed tax viz., Rs.11,62,18,803/-, out of which, credit shall be given to the amount that was already paid as pre-deposit at the

time of filing the appeal before the second respondent. 50% of the said amount now ordered to be deposited, shall be deposited by the petitioner on or before 31-03-2005 and the balance shall be paid within two weeks thereafter. On such deposit, there shall be stay of collection of the balance of the disputed tax by the Revenue, pending disposal of the appeal before the second respondent-Appellate Deputy Commissioner (CT). The second respondent shall dispose of the appeal in accordance with law by passing appropriate orders as expeditiously as possible. No orders as to costs.

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M.H.S.ANSARI, J

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T.CH.SURYA RAO, J

Date: 16-03-2005

Prv

To

1 Assistant Commissioner (CT)(LTU),

Nalgonda Division, Nalgonda.
2 Appellate Deputy Commissioner (CT),

Hyderabad Rural Division, Hyderabad.
3 The Additional Commissioner (CT) Hyderabad.

4 Two CCs to the GP for Commercial Tax,

High Court of A.P., Hyderabad (O.U.T.)

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